



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/299,309	04/26/1999	GLEN R. WALTERS	BC9-98-105	3115

23334 7590 05/16/2003

FLEIT, KAIN, GIBBONS,  
GUTMAN & BONGINI, P.L.  
ONE BOCA COMMERCE CENTER  
551 NORTHWEST 77TH STREET, SUITE 111  
BOCA RATON, FL 33487

EXAMINER

FERRIS, DERRICK W

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 05/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/299,309

Applicant(s)

WALTERS ET AL.

Examiner

DWF  
Derrick W. Ferris

Art Unit

2663

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 08 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-24.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
MELVIN MARCELO  
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's invention is directed towards simulating a lower speed connection over a high-speed connection. The motivation for such a device according to the applicant is to allow programmers that develop network centric software for use on a home computer to simulate an experience of an end user of a low bandwidth connection such as a dial-up connection (in reference to applicant's specification on page 2). Garroppo et al. discloses an architecture that allows a network centric programmer to "simulate" an end user experience using a reasonable but broad interpretation. Specifically, as shown in figure 1, an end user over a dial-up connection is able to access applications on the Internet through a modem and access server by dialing into an ISP as is known in the art. Readily apparent to a skilled artisan is that since the dial-up connection is at a lower speed (e.g., 28.8 Kbps) then the rest of the Internet (operating at 64 Kbps or greater), a bottleneck occurs over the dial-up connection which "simulates" a lower-speed connection (i.e., a second predetermined speed). At issue is not a second predetermined speed (i.e., the lower speed), but a third speed which represents the speed of a high-bandwidth connection (i.e., the actual speed of the connection). In this instance the speed of the higher speed connection (i.e., the third speed) would be 33.6 Kbps. Specifically a speed of a low-speed connection and high-speed connection can vary from 28.8 Kbps to 33.6 Kbps. Thus Garroppo discloses a low-speed (i.e., second speed) and a high-speed (i.e., third speed) connection where examiner notes that a skilled artisan would recognize that the speed of a connection is relative. Specifically, a skilled artisan would recognize that the speed of a modem can vary from a lower speed 28.8 Kbps (i.e., a second speed) to a higher speed 33.6 Kbps (i.e., third speed) where the speed is relative. Examiner notes that a first speed is either 64 Kbps or 128 Kbps which is higher than a lower speed (i.e., second speed) connection. Stated another way, the references teaches achieving a lower speed connection (or higher speed connection) by swapping out (i.e., upgrading the modem) such that the modem limits the speed of the connection between the access server and the client. Hence the reference discloses that a second speed (e.g., 28.8 Kbps) is lower than a first speed (e.g., 64 Kbps) and a second speed (e.g., 28.8 Kbps) is also lower than a third speed (e.g., 33.6 Kbps) where the third speed is considered actual the speed of the connection.